

UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

IN RE:

CHADLEY L. SMITH
AND JILL M. SMITH

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)
)
)

Case No. 14-40420

(Chapter 13)

Debtors

MOTION TO LIFT THE STAY
AND FOR ABANDONMENT OF PORTABLE BUILDING
THAT IS SUBJECT OF EXECUTORY CONTRACT REJECTED BY DEBTORS

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

COMES NOW Ozark Rentals and Investments Group, LLC ("Ozark"), by and through its attorney of record, Winters Law Firm, and files this Motion to Lift the Stay and for Abandonment of Portable Building That Is Subject Of Executory Contract Rejected By Debtor in the above referenced matter. In support thereof, Ozark would show this court as follows:

1. On April 12, 2013 Debtors executed an executory contract ("the Contract") with Ozark for a SUTX10 x 16 Portable Building ("the Building"). A copy of said Contract is attached hereto and incorporated by reference herein as Exhibit A.
2. On February 28, 2014 Debtors filed this voluntary Chapter 13 case.
3. Debtors' petition lists Ozark on Schedule G under Executory Contracts and Unexpired Leases with the Contract to be rejected.
4. Debtors have not made a payment since December 17, 2013 case and have

a current payoff of \$2178.44 good until June 15, 2014 when more late fees will be added to the amount.

5. Since the Debtors intend to reject the Contract, Ozark would like permission to repossess the Building.
6. Ozark recently found out that contrary to the Contract, the Building was no longer where it was delivered after Debtors themselves had moved to a new location.
7. Ozark inquired as to where the Building had been moved and Debtors stated that they thought Ozark had repossessed it.
8. Ozark did not repossess the Building.
9. Debtors called Ozark to say they wanted out of the Contract and they had someone who would assume the Contract. The person to assume the Contract never did so.
10. Ozark asked for Debtors' current location to try to locate the Building and verify what Debtors' said about the disappearance of the Building. Debtors will not give Ozark their current location.
11. Ozark would like permission from the Court to try to repossess the Building, pursuant to 11 U.S.C. § 365(p)(1).
12. Ozark would like permission from the Court to pursue whatever legal remedies it can to obtain payment from Debtors, if the Building cannot be located and repossessed.
13. Ozark seeks entry of an Order, essentially in the form of Exhibit B, attached hereto, authorizing the rejection of the executory contract, immediate lifting of the automatic stay, and abandonment of the Building.

WHEREFORE, THE PREMISES CONSIDERED, Ozark Rentals and Investments, LLC restfully requests the Court enter an Order:

- A. Lifting the automatic stay on the Building, thereby permitting Ozark to exercise the rights and remedies it is afforded under the Contract, including but not limited to the right to

repossess the Building.

B. Waiving the fourteen day stay of the Order as provided by Fed. R. Bankr. P. 4001(a)(3).

C. Granting any other relief the Court deems just and proper.

Respectfully Submitted,
By /s/ Debby Winters
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Attorneys for Ozark Rentals and Investments Group, LLC

Date: May 21, 2014

CERTIFICATE OF SERVICE

I certify that on May 21, 2014 a true and correct copy of the Motion to Lift the Stay was served upon the following parties of interest via electronic means as listed on the Court's ECF noticing system or by depositing in the United States Mail with sufficient postage attached.

Respectfully submitted,
By /s/ Debby Winters
Debby Winters
E-mail: winterslaw@gmail.com

BY ELECTRONIC NOTICE:

DEBTORS:

Chadley Smith
And Jill Smith
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DEBTOR'S ATTORNEY:

Richard A. Pelley
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CHAPTER 13 TRUSTEE:

Mark A. Weisbart
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